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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,636	10/30/2003	Richard Glee Wood	1211.17	7326

40450 7590 07/08/2005

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EXAMINER

BROOKS, MATTHEW L

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 07/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/697,636

Applicant(s)

WOOD ET AL.

Examiner

Matthew L. Brooks

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: The disclosure is found to contain many grammatical errors and typos.

Examples include:

[0008] lines 15-18.

[0009] line 19, "...the owner than asks..."

[00023] line 17 "...where a company to doing research..."

[00033] line18 "If an individual an acceptable risk factor..."

Appropriate correction is required.

Claim Objections

2. **Claims 17, 18, 20, and 21** are objected to because of the following informalities: The Applicant appears to have made a mistake by having the claims depend from Claim 1, for purposes of examination Examiner had the claims depend from Claim 13. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3629

4. **Claims 1, 2, 3, 4, 6, 9, 10, 16 and 13** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. With respect to **claims 1 and 13**:

Examiner is uncertain how an "individual comprises identification information."

However, for purposes of examination Examiner considered this to mean that an individual has certain identification information such as a name or fingerprint...etc.

6. Furthermore with respect to claims 1 and 13 and all that depend therefrom Examiner is uncertain why the term "Risk Factor" is capitalized and further feels that it should not be.

7. With respect to **claims 2, 3, 4, 6, 9, 10 and 16**

Anytime the Applicant stated, "selected from the group consisting of..." Examiner has interpreted this properly to mean, "selected from one of..."

8. With respect to **Claim 3**

Examiner is uncertain how the step of requesting entry is performed by the devices laid out by the Applicant. Rather this is interpreted to mean, the step of validation/authorization is performed by the devices.

9. With respect to **Claim 4**

Examiner is confused as to the role of the secondary party. Is the secondary party the one who is working for the company and performing authorization, or is the secondary party the person seeking entrance to the facility? For purposes of examination the former is the interpretation.

Claim Rejections - 35 USC § 101

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 5, 7, 8,9, 10, 11, 12, 13, 14,15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 32 and 33 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

Mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process.

Art Unit: 3629

In the present case, Applicant does not use a computer and all of the Applicant's steps in the claim may be performed in one's head or on a piece of paper. Applicant needs to indicate the method is executable by a computer.

For instance in Claim 5 Applicant states "A method comprising: accessing a *registration site* associated with an event..." (Emphasis added for purposes of displaying registration site could just as well be a counter at a forum for the event). Applicant needs to implicate that this is an "internet site" or "accessing a site via the internet".

Appropriate action is required.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-5, 8-17, and 20-23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Patent Number 6,394,356 (Zagami).

13. With respect to **Claim 1**: Zagami discloses

a. establishing a secure environment by an owner, wherein the secure environment comprises the secure point of entry, and wherein the secure point of entry is assigned an environment Risk Factor (See Column 1, 1-25 and Column 6, 8-15 and Column 6, 64-68 wherein "environment risk factor" is simply an arbitrary designation of clearance (Applicant's specification [00023]));

- b. requesting entry into the secured environment at the secure point of entry by an individual, wherein the individual comprises identification information, and wherein the identification information comprises an individual identifier (Column 1, 20-24);
- c. sending the individual identifier to an authentication database established by a third party, wherein the authentication database comprises records for registered individuals (Fig 4 and Column 6, 60-80);
- d. receiving a response from the authentication database, wherein the response states that the individual is a non-registered individual (Figure 4 Column 6, 60-68);
- e. asking the non-registered individual a plurality of questions, wherein the non-registered individual answers the plurality of questions creating a profile, wherein an individual Risk Factor is assigned to the individual based upon the profile (Figure 4 "unique identifier" and Column 4, 14-20 and Column 5, 50-60);
- f. registering the non-registered individual with the individual Risk Factor on the authentication database by creating a record comprising the individual identifier and the individual Risk Factor (Figure 4 and Column 5, 50-60);
- g. making a comparison between the individual Risk Factor and the environment Risk Factor (Column 1, 32-36 and Column 6, 60-68 this is simply looking at the level of clearance given to the individual and the area the individual is trying to enter);

Art Unit: 3629

h. making a determination whether the individual is allowed entry into the secured environment based upon the comparison (Column 2, 35-40 and Column 3 20-25 and Column 6, 60-68); and

i. adding the determination to the record of the individual in the authentication database (Column 2, 20-36 and Column 6 28-35 "tracking record" and Column 7, 40-50).

14. With respect to **Claim 2**: Zagami discloses

wherein the secure environment is selected from the group consisting of a bank, a computer program, an airport, a train, an airplane, a truck, a military vehicle, a car, a building, offices, an open space, a specified area, a computer, a border of a country, an internal country checkpoint, and combinations thereof (Column 1, 5-15).

15. With respect to **Claim 3**: Zagami discloses

wherein the step of requesting entry into the secured environment at the secure point of entry by an individual is performed by a member of the group consisting of a fingerprint reader, a numerical code, a voice pattern recognition reader, a retinal scanner, a telemetry card reader, a smart card reader, other biometric readers, and combinations thereof (Column 1, 65-68).

16. With respect to **Claim 4**: Zagami discloses

wherein the steps of requesting entry into the secured environment at the secure point of entry is performed by a secondary party, wherein the secondary party is selected from the group consisting of a secretary, a clerk, an employee, a security guard, a contract worker, and combinations thereof (Column 5, 62-65 "attendant").

Art Unit: 3629

17. With respect to **Claim 5**: Zagami discloses

wherein the steps of sending the individual identifier additional information and receiving a response from the authentication database is transmitted by standard voice and data transmission (Column 5, 65-68 and Column 6, 1-8 and Column 6, 15-25).

18. With respect to **Claim 8**: Zagami discloses

further comprising the step of holding the individual for questioning when the individual Risk Factor is high, wherein the questioning is performed by a governmental authority or the owner (Column 7, 60-68 wherein Zagami discusses physical implementation and restriction devices and inherently if Zagami was used at a military building as disclosed the government personnel would hold the individual for questioning).

19. With respect to **Claim 9**: Zagami discloses

wherein the identification information is selected from the group consisting of fingerprint, a numerical code, a voice sample, an eye scan, individual's name, individual's pictures, individual's demographics, and combinations thereof (Column 6, 1-8).

20. With respect to **Claim 10**: Zagami discloses

wherein the step of asking the non-registered individual the plurality of questions comprises asking questions pertaining to individual's immigration; individual's police records; individual's arrests; individual's occupation; individual's possessions; individual's parole status; individual's dates of prior admissions to the secure environment; individual's dates of prior denials to the secure environment; individual's

Art Unit: 3629

prior seizures of items prohibited in the secure environment; individual's name, individual's address, individual's nationality, individual's height, individual's weight, individual's social security number, individual's passport number, individual's government identification type, individual's government identification number, individual's credit card number, individual's finger print, individual's digital photo, individual's age, and combination thereof (Column 4, 14-20 and Column 5-50 Zagami must ask questions in order to receive the data mentioned the specific questions asked are simply Non-functional data).

21. With respect to **Claim 11**: Zagami discloses

the step of presenting the individual with a smart card after registering the individual in the authentication database, wherein the smart card comprises the individual identifier (Figure 1 and 4 and Column 6, 15-20).

22. With respect to **Claim 12**: Zagami discloses

wherein the smart card is only usable by the individual with a proper biometric key (This is inherent with Zagami in that the user's picture on the ID is their biometric key, Figures 1-5).

23. With respect to **Claim 13**: Zagami discloses

a. establishing the secure environment by an owner, wherein the secure environment comprises the secure point of entry, and wherein the secure point of entry is assigned an environment Risk Factor (See Column 1, 1-25 and Column 6, 8-15 and Column 6, 64-68 wherein "environment risk factor" is simply an arbitrary designation of clearance (Applicant's specification [00023]));

b. requesting entry into the secured environment at the secure point of entry by an individual, wherein the individual comprises identification information, and wherein the identification information comprises an individual identifier (Column 1, 20-24);

c. sending the individual identifier to an authentication database established by a third party, wherein the authentication database comprise records for registered individuals (Fig 4 and Column 6, 60-80);

d. receiving a response from the authentication database, wherein the response states that the individual is a registered individual, and wherein the response comprises the individual Risk Factor assigned to the individual (Figure 4 Column 6, 60-68);

e. making a comparison between the individual Risk Factor and environment Risk Factor (Column 1, 32-36 and Column 6, 60-68 this is simply looking at the level of clearance given to the individual and the area the individual is trying to enter) ;

f. making a determination whether the individual is allowed entry into the secured environment based upon the comparison (Column 2, 35-40 and Column 3 20-25 and Column 6, 60-68); and

g. adding the determination to the record of the registered individual in the authentication database (Column 2, 20-36 and Column 6 28-35 "tracking record" and Column 7, 40-50).

24. With respect to **Claim 14**: Zagami discloses

further comprising the step of asking the individual a plurality of questions, wherein the individual answers the plurality of questions creating a profile, wherein the

Art Unit: 3629

individual Risk Factor is modified based upon the profile (Column 4, 14-20 and Column 5-50 Zagami must ask questions in order to receive the data mentioned and create the database/profile as seen in Figure 4, the specific questions asked are simply Non-functional data).

25. With respect to **Claim 15**: Zagami discloses

the step of holding the individual for questioning when the individual Risk Factor is high, wherein the questioning is performed by a governmental authority or the owner (Column 7, 60-68 wherein Zagami discusses physical implementation and restriction devices and inherently if Zagami was used at a military building as disclosed the government personnel would hold the individual for questioning).

26. With respect to **Claim 16**: Zagami discloses

wherein the step of asking the non-registered individual the plurality of questions comprises asking questions pertaining to individual's immigration; individual's police records; individual's arrests; individual's occupation; individual's possessions; individual's parole status; individual's dates of prior admissions to the secure environment; individual's dates of prior denials to the secure environment; individual's prior seizures of items prohibited in the secure environment; individual's name, individual's address, individual's nationality, individual's height, individual's weight, individual's social security number, individual's passport number, individual's government identification type, individual's government identification number, individual's credit card number, individual's finger print, individual's digital photo, individual's age, and combination thereof (Column 4, 14-20 and Column 5-50 Zagami

Art Unit: 3629

must ask questions in order to receive the data mentioned the specific questions asked are simply Non-functional data).

27. With respect to **Claim 17**: Zagami discloses

wherein the steps of sending the individual identifier additional information and receiving a response from the authentication database is transmitted by standard voice and data transmission (Column 5, 65-68 and Column 6, 1-8 and Column 6, 15-25).

28. With respect to **Claim 20**: Zagami discloses

the step of holding the individual for questioning when the individual Risk Factor is high, wherein the questioning is performed by a governmental authority or the owner (Column 7, 60-68 wherein Zagami discusses physical implementation and restriction devices and inherently if Zagami was used at a military building as disclosed the government personnel would hold the individual for questioning).

29. With respect to **Claim 21**: Zagami discloses

wherein the identification information is selected from the group consisting of fingerprint, a numerical code, a voice sample, an eye scan, individual's name, individual's pictures, individual's demographics, and combinations thereof (Column 6, 1-8).

30. With respect to **Claim 22**: Zagami discloses

the step of presenting a smart card by the individual requesting entry into the secured environment at the secure point of entry, wherein the smart comprises information specific to the individual (Figure 1 and 4 and Column 6, 15-20).

31. With respect to **Claim 23**: Zagami discloses

wherein the smart card is only usable by the individual with a proper biometric key (This is inherent with Zagami in that the user's picture on the ID is their biometric key, Figures 1-5).

Claim Rejections - 35 USC § 103

32. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

33. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

34. **Claims 6, 7, 18, and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Zagami in view of "ChoicePoint in talks about airport card"; Credeur, Mary Jane; Atlanta Business Chronicle v25n17 pA1 (attached) Herein after referred to as "ChoicePoint".

With respect to Claims 6, 7, 18 and 19

Zagami discloses a method for providing access and tracking the access of both

registered and non-registered individuals at a secure point of entry to a secure environment. Zagami checks a database to determine what type of clearance is authorized. Furthermore, Zagami indicates that this database may be external (Column 7, 50-60).

Zagami differs from the claimed invention in that it does not link to another database which is from the selection of Interpol database, United States Border Patrol database, US police database, US FBI database, US CIA database, state agency fingerprint databases, and other state authentication database, immigration databases, and combinations thereof.

ChoicePoint teaches that in view of the September 11th terrorist attacks we needed a system that could make the subjective determination of whether a person is prone to be a risk and can do damage and the best way to do this is to run a background check which is cross referenced against files compiled by the FBI, CIA or Immigration Service. Examiner notes at this point to add any more agencies would be obvious in the interest of security (page 2).

ChoicePoint is evidence that ordinary workers in the art of security would recognize the benefits of checking on a secondary database from the aforementioned group before allowing an individual access to an area where screening occurs using biometric data with a smart card.

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Zagami to check with a secondary database from one of the following: Interpol database, United States Border Patrol database, US

police database, US FBI database, US CIA database, state agency fingerprint databases, and other state authentication database, immigration databases, and combinations thereof and then to send this information to the first database as shown in ChoicePoint.

Conclusion

35. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- A. 6,738,901 Boyles, which shows the Applicant's invention but implemented for internet and computer access.
- B. "Preventing Terrorism in the drug wars"; Oct. 1, 2000; Carol Carey (attached)
- C. "High-tech security systems team up with environmental design at military site"; Access Control and Security Systems Integration, Oct. 2000 (attached)
- D. Newton's Telecom Dictionary 18th edition; definitions of "biometrics" and "Biometric Access Control" and "Biometric Device" (attached)
- E. Patent Numbers 6,779,721 and 5,841,886

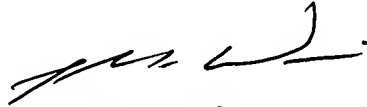
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew L. Brooks whose telephone number is (571) 272-8112. The examiner can normally be reached on Monday - Friday; 8 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-8112. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3629

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MLB
6/28/2005



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